THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16900 OF 2006

30.08.2006

Between:

Darpal Gangadhar, S/o.Rajanna

… Petitioner

AND

The Mandal Revenue Officer, Bichkunda, Nizamabad District
And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16900 OF 2006

ORDER:

The petitioner filed the instant writ petition seeking a writ of Mandamus declaring the action of the Mandal Revenue Officer, Bichkunda (MRO), the first respondent herein, in threatening to demolish the petitioner's house bearing No.8-131/A situated at Bichkunda Village and Mandal in Nizamabad District as illegal and arbitrary.

The case of the petitioner is that he purchased the land/house site admeasuring 166 Sq.yards situated at Bichkunda Village on 09.10.1990 under an unregistered sale deed from one Darpal Paramesh. After obtaining necessary permission from the Gram Panchayat in 2002-2003, he constructed a house, which is duly assessed to property tax. It is alleged that the MRO came along with his staff and took measurements with a view to demolish the petitioner's house. It is contended that without due process of law and without issuing any notice to the petitioner, the house cannot be demolished.

When the matter was heard initially on 14.8.2006, learned Assistant Government Pleader for Revenue (General) sought time for getting instructions. On 25.8.2006, learned Assistant Government Pleader brought to the notice of this Court that the MRO has already initiated action under A.P. Land Encroachment Act, 1905 (the Act, for brevity) and also issued a notice under Section 7 of the Act on 28.8.2005 but no orders under Section 6 of the Act are passed. Therefore, this Court directed the learned Assistant Government Pleader to produce a copy of the said notice.

Today, a Xerox copy of the notice issued under Section 7 of the Act has been produced before this Court. As rightly pointed out by the learned Counsel for the petitioner, the said notice is issued to one Gaddam Gangaram alleging that he has encroached upon the Government land admeasuring Acs.0.02½ guntas out of Acs.6.06 guntas in survey No.15 of Bichkunda Village and the property is described as open place. Learned Counsel for the petitioner,

therefore, submits that this is not a proper notice. The Court cannot accept the same. On perusal of the unregistered sale deed annexed to this writ petition, this Court is of considered view that no details as to survey number in which the land is situated etc., are mentioned to identify the property. In such circumstances, the petitioner can raise all the objections before the MRO by filing explanation treating the notice issued under Section 7 of the Act, as if it is a notice issued to him. The petitioner can also take a plea, which is taken in this writ petition, that the land, which he purchased from Darpal Paramesh, is altogether different from the land in survey No.15. This is a disputed question of fact and this Court is not inclined to decide the same. Now that the learned Assistant Government Pleader submits that only Section 7 notice is issued. The petitioner is, therefore, given a week's time for filing explanation to the MRO. As and when the explanation is submitted, the MRO shall inspect the land again, consider the explanation and evidence submitted by the petitioner and pass appropriate orders under Section 6 of the Act, within two weeks thereafter. If the petitioner is aggrieved by any such order, he can prefer appeal to the Revenue Divisional Officer, Nizamabad.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

August 30, 2006

NOTE:

Issue order copy by

31.8.2006.

(By order)

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